IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 3958 OF 1996

Dr. (Mrs.) A.Y. Sardesai .... Petitioner

versus

State of Maharashtra & ors..... Respondents.

None for the petitioner
Mr. R.M. Patne AGP for Respdt.1 & 2.
Mr. G.V. Bhagwat i/b.M/s. Divekar & Co. for Respdt. no.3.
Mr.A.P.Kulkarni i/b. Mr. A.A. Kumbhakoni for Respdt. no.5.
None for Respdt. nos. 4 & 6 though served.

CORAM; A.P. DESHPANDE, J.
DATED; 31ST JANUARY, 2007.

JUDGMENT;

1. None for the petitioner. Heard the learned counsel for the respondents. According to the learned counsel appearing for the respondent, the petitioner was appointed in a post carrying designation of " Lecturer in Education". The candidates were expected to possess the qualification of B.Ed. The petitioner was holding the said qualification of B.Ed. which she has obtained by the correspondence course from Annamalai University. Immediately after the appointment of the petitioner to the said post, the university raised an objection and refused to grant approval. The initial appointment was purely on probation for two years and the date of appointment was 5-6-1991. As the university was not recognising the correspondence course conducted by Annamalai University for B.Ed., was required teaching qualification, the petitioner was terminated from service with effect from 20-4-1992. It is thus clear that the petitioner had put in less than one year

service when the dispute arose. Agrrieved by the termination, the petitioner preferred an appeal before the College Triobunal. Though the College tribunal allowed the appeal and granted re-instatement, it declined to grant back wages to the petitioner.

Aggrieved by the denial of the backwages prompted the petitioner to file the instant petition. It willnot be out of place at this point of time to state that pursuant to the judgment and order passed by the University Tribunal dated 23-1-1995 the petitioner was infact re-instated on 23-2-1995. The petitioner then resigned from service on 4-8-1995. It is only after she resigned from the service that she has filed the present petition, challenging the order passed by the tribunal. The writ petition came to be filed in November 1995. So the limited grievance in this petition is denial of backwages by the tribunal. The perusal of the judgment passed by the tribunal reveals that appeal raises a serious

question as to whether the bad qualification acquited by the petitioner by correspondence course from Annamalai university could be treated as required eligibility qualification for the post which the petitioner was appointed. As the Registrar of S.N.D.T. Women's university had refused to recognise the said qualification it cannot be said that the respondent nos.4 and 5 committed any gross illegality in terminating the services of the petitioner that too during the probation period. After elaboratly recorded the reasons, backwages came to be denied by the tribunal.

3. Counsel for the respondent submits that in regard to payment of backwages, discretion is vested with the tribunal and the same has been exercised by the tribunal on sound settled legal principles and it does not be call for any interference in exercise ofmwrit jurisdiction. It is alternatively submitted that the petitioner has taken a calculated chance by accepting re-instatement immediately after passing of the order by tribunal and only after having resigned from the said post belatedly, the writ petition came to be filed. In the submission of the counsel for respondent nos. 4 and 5, the petitioner is estopped from challenged that part of the order passed by the tribunal which goes to deny the backwages. Perused the order passed by the tribunal. The tribunal has recorded peroper reasons for denying the backwages. No cause is made for interference in the order passed by the tribunal. In the result, the petition fails and is dismissed. Rule is discharged.

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(A.P.Deshpande,J.)